

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 9-16 are pending in this application as Claims 1-8 were previously canceled without prejudice or disclaimer.

The outstanding Action presents an objection to the list of related cases included with the IDS papers filed March 17, 2006, a rejection of Claims 9, 10, 13, and 14 under 35 U.S.C. §102(e) as being anticipated by Honkura et al. (U.S. Patent Application Publication No. 2006/0123906, Honkura), a rejection of Claim 11 as being unpatentable over Honkura in view of a second embodiment of Honkura (HE2), a rejection of Claim 15 as being unpatentable over Honkura, a rejection of Claim 16 as being unpatentable over Honkura in view of a third embodiment of Honkura (HE2), a provisional obviousness-type double patenting rejection of Claims 9, 10, and 14 over Claims 1-4 of U.S. Patent Application Serial No. 11/144,459, and a provisional obviousness-type double patenting rejection of Claims 11, 13, 15, and 16 over Claims 1 and 2 of U.S. Patent Application Serial No. 11/144,459 in view of Honkura.

Initially, Applicants note with gratitude the indication that Claim 12 includes allowable subject matter. This claim has not been rewritten in independent form as the rejections applied as to base independent Claim 9 (there being no intervening claims) are believed to be overcome by the filing of the English translation and statement as to the priority Japanese Application more fully discussed below.

The objection to the first application listed on the list of related cases included with the IDS papers filed March 17, 2006, is not understood. As noted on the attached copy of the INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97 filed on March 17, 2006, (in the checked paragraph under the heading "RELATED CASES," the waiver of 37 CFR v 1.98 dated September 21, 2004, provides that copies of cited pending applications

need not be provided. As the first listed item was a U.S. Patent Application (Serial No. 10/532,990), it was not necessary to submit a copy thereof in view of this cited waiver. Accordingly, a copy of the attached list of related cases included with the above-noted IDS filing of March 17, 2006, showing consideration of U.S. Patent Application Serial No. 10/532,990 by appropriate inclusion of the Examiner's initials is respectfully requested.

Turning to the outstanding rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) that all rely on the teachings Honkura et al. (U.S. Patent Application Publication No. 2006/0123906, Honkura), this reference cannot be considered to be prior art as Applicants have now perfected their claim to foreign priority under 37 CFR § 1.55 by filing an English language translation of priority Japanese Application 2004-146831 along with the required statement by the translator that the translation of the certified copy is accurate. Accordingly, it is respectfully submitted that Applicants have established a foreign priority date of May 17, 2004, based upon the filing date of Japanese Application No. 2004-146831 under MPEP § 201.15 and 37 CFR § 1.55, such that the rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) that all rely on the teachings Honkura are believed to be overcome because the Honkura filing date is March 21, 2005, and Honkura can no longer be considered to be "prior art."

With regard to the provisional obviousness-type double patenting rejections of Claims 9-11 and 13-16, Application Serial No. 11/144, 459, this cited Application serial Number appears to contain an error as it is the Serial No. of an application that is directed to a "HOSE CLAMP RETAINING CLAMP.

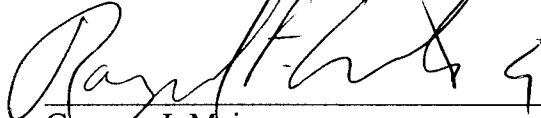
It appears that the intended Serial No. might have been 11/444,459, filed June 1, 2006. If it was, MPEP § 804(B)(1) notes that if the only rejection remaining in an earlier filed application is a provisional obviousness-type double patenting rejection over claims in a pending Application with a later filing date, then the provisional obviousness-type double

patenting rejections in the earlier filed application are to be withdrawn and the case allowed to issue without the need for a terminal disclaimer. If the filing date of the application actually intended to be cited is that of Application Serial No. 11/444,459, than the filing date of this application is the earlier filing date and no new provisional obviousness-type double patenting rejections of Claims 9-11 and 13-16 should be made based upon the later filed Application Serial No. 11/444,459 considering the guidance set forth in this MPEP section.

Consequently, in view of the present amendment and in light of the above discussions, it is believed that the outstanding rejection is overcome, and the application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Raymond F. Cardillo, Jr.
Registration No. 40,440